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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
IDF 2449 (4000-13600)

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Signature ______________________

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Application Number 10/682,463	Filed 2003-10-09
First Named Inventor Joseph G. Laura	
Art Unit 2453	Examiner Higa, Bendan Y.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☑ attorney or agent of record.
Registration number 39800.

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 ______________________

/Michael W. Piper/
Signature

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Telephone number

May 26, 2009
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of ________ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Joseph G. Laura, et al.	§	
		§	Group Art Unit: 2453
Serial No.:	10/682,463	§	
		§	Examiner: Higa, Brendan Y.
Filed:	October 9, 2003	§	
		§	Confirmation No.: 9210
For:	SYSTEM FOR PROCESSING DATA RETRIEVED FROM AN INFORMATION SERVICE LAYER	§ § §	

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

REASONS FOR REQUESTING PRE-APPEAL REVIEW

This request is necessary because the rejections are clearly in error.

I. The Rejections

The Office Action rejects claim 1 as obvious under 35 U.S.C. § 103(a) in view of Draper (U.S. Patent 7,152,062), Heninger (United States Patent Application Publication 2003/0140045), and Callender (United States Patent Application Publication 2002/0147657). As shown below, this rejection is clearly in error. The remaining rejections rely on this combination of references; thus, the remaining rejections should be overturned.

II. Summary

Draper, Heninger, and Callender together provide no disclosure, teaching, or suggestion that the same API (application program interface) provides an ISL (information service layer) script and an ICL (information command layer) script, as claimed. Yet further, Draper and Callender do not provide any disclosure, teaching, or suggestion regarding the claimed interaction of the ISL, ICL, ISL script, and ICL script.

While Draper *might* be cited for the proposition of retrieving and formatting data, and while Callender *might* be cited for the proposition of data analysis, the combination of these references does not disclose *how* the claimed system actually performs retrieving, formatting, and analyzing. The addition of Heninger is not relevant to this analysis, as Heninger does not contain any disclosures that could be related to these particular features. Rather, Heninger is only directed towards embedding and executing scripts in dynamic documents.

Claim 1 is as follows:

> 1. A system for processing data stored on a computer readable medium retrieved from an information service layer, the system comprising:
>
> an application program interface that receives a request for data from an application, and that provides at least one information service layer script and at least one information command layer script;
>
> a requestor component that builds a request for data using the at least one information service layer script, and transmits the built request for data to the information service layer;
>
> a receiver component communicating with the information service layer that receives a response from the information service layer, the response formatted based upon the formatting described in the information service layer script, and the response including at least a portion of the requested data;
>
> an analyzer that receives the response from the receiver component, and the analyzer analyzes the at least a portion of the requested data, wherein the analyzer performs calculations on the at least a portion of the requested data according to the at least one information command layer script received from the application program interface, wherein instructions are embedded within the at least one information command layer script using a tag-based markup language, wherein the analyzer parses the information command layer script to obtain the instructions embedded in the information command layer script to analyzes a metric associated with the application based on the at least a portion of the requested data, and the analyzer creates an analyzed portion of the response; and
>
> a writer component formatting the analyzed portion of the response based upon a desired format, wherein the application program interface sends the formatted analyzed portion of the response to the application.

III. The Combination Does Not Disclose All of the Features of the Claims

The Final Office Action asserts that Draper discloses the bulk of the claims, but that Callender discloses the claimed analyzer, and that Heninger discloses embedding of scripts. Final Office Action, pp. 2-5. Appellants note that the Final Office Action has interpreted Draper as disclosing the claimed ISL script at col. 4, l. 65 through col. 5, l. 24, and also as disclosing the ICL script at col. 6, ll. 4-10. Final Office Action, pp. 2-3.

However, Appellants respectfully submit that Draper does not disclose *both* the ISL script and the ICL script, or their corresponding layers, and also does not disclose the *interaction* of these claimed entities. At the first cited portion (col. 4-5), Draper discloses that a "lens" can be used to create a query. Draper, col. 5, ll. 1-4. The API (application program interface) can then be used to retrieve the results of the query, which may be in a canonical format. Id. at ll. 12-14. Later, Draper discloses that the API can use the lens to *transform the results to the canonical format* before returning the results to the application. Draper, col. 6, ll. 4-10.

In view of these disclosures, without admitting the validity of the Final Office Action's interpretation, the "lens" of Draper *might* be interpreted as the claimed "ISL script." However, contrary to the position of the Final Office Action, Draper does not disclose the claimed ICL script, because the ICL script performs further processing in the manner provided in claim 1. In other words, the "lens" in Draper *might* be interpreted as "retrieving data" and "transforming the data into a format," but the "lens" in Draper does not perform the additional processing required by the ICL and ICL script of claim 1.

Nevertheless, Appellants consider the references as a whole, and thus address Callender and Heninger together with Draper. The Final Office Action cites Callender for the proposition that Callender discloses the claimed "analyzer," which contains the feature, "wherein the analyzer performs calculations on the at least a portion of the requested data according to the at least one information command layer script received from the application program interface."

However, Appellants respectfully submit that Callender does not disclose this claimed feature; nor does Callender disclose the features of the ICL, ISL, ICL script, and

ISL script, or their interactions, taken together as a whole within the context of claim 1. Rather, Callender is directed to a method for determining item availability through a network. Callender, Abstract. At paragraphs 26-27 (cited by the Final Office Action as disclosing the claimed feature), Callender discloses performing a probability analysis. Specifically, Callender aggregates raw data from retailers and then determines a probability that a given retailer will have a particular product in stock. Id. Thus, with regard to the claim feature at issue, Callender at most discloses performing an analysis on retrieved data.

However, the analysis disclosed in Callender is not performed by an ICL according to instructions an ICL script received from the same API that provides the ISL script, as in claim 1. Callender does not disclose the claimed structure of the API, the ISL, and the ICL. Therefore, Callender does not disclose the claim feature at issue.

As shown above, Draper does not disclose all of the claim features, and Callender also does not disclose these same claim features. Still further, Heninger does not disclose these same claim features. Rather, Heninger is only directed to a server side scripting language, in which script files can be embedded in other files, and subsequently parsed and executed. Heninger, paragraphs 0057-0065 (also cited by the Final Office Action). However, Heninger does not disclose any feature that could be related to an ISL or ICL.

In any case, Draper and Callender together provide no disclosure, teaching, or suggestion that the same API provides an ISL script and an ICL script, as claimed. Yet further, Draper and Callender do not provide any disclosure, teaching, or suggestion regarding the claimed interaction of the ISL, ICL, ISL script, and ICL script. Heninger is likewise devoid of disclosure in this regard. Therefore, none of the cited references discloses the features of, “wherein the analyzer performs calculations on the at least a portion of the requested data according to the at least one information command layer script received from the application program interface.” Accordingly, no *prima facie* obviousness rejection can be stated against claim 1 using the cited references.

In addition, the proposed combination of references considered as a whole does not disclose the features of claim 1 arranged as they are in the claims. Specifically, claim 1 requires formatting data in two different places in the claim using two different components, the claimed receiver component and the claimed writer component. None of the cited references discloses arranging the formatting data in two different manners using the claimed components. Taken as a whole, the combination of applied art does not disclose such a combination of features as claimed because no reason exists to believe that those of ordinary skill would read into the references some arrangement that does not exist in any of the references themselves or elsewhere in the art. For example, Draper is relied upon by the Final Office Action as formatting data and Callender does not disclose formatting data in a manner relevant to the arrangement of these features in claim 1. Thus, no reason exists to believe that the proposed combination discloses the specific arrangement of formatting data in multiple components, as claimed. Thus, again, the Final Office Action clearly failed to state a *prima facie* obviousness rejection.

V. Conclusion

Appellants respectfully submit that the Final Office Action had clear errors because all of the limitations of the claims were clearly not met by the applied art. Accordingly, Appellants respectfully request prosecution to be reopened, and Appellants respectfully submit that the present application is in condition for allowance. The Commissioner is hereby authorized to charge payment of any further fees associated with any of the foregoing papers submitted herewith, or to credit any overpayment thereof, to Deposit Account No. 21-0765, Sprint.

Respectfully submitted,

Date: May 26, 2009

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